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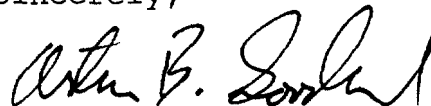
Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, DC 20554

Dear Mr. Caton:

Transmitted herewith, on behalf of National Broadcasting Company, Inc., are an original and nine copies of its Comments filed in response to the Notice of Proposed Rulemaking in MM Docket No. 95-176, Closed Captioning and Video Description of Video Programs.

In the event there are any questions concerning this matter, please contact the undersigned or Diane Zipursky, National Broadcasting Company, Inc., 1299 Pennsylvania Avenue, N.W., 11th Floor, Washington, D.C. 20004 (202-637-4535).

Sincerely,



Arthur B. Goodkind

Enclosures

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OFFICE OF SECRETARY**

In the Matter of )  
 )  
Closed Captioning and Video )  
Description of Video Programs )  
 ) MM Docket No. 95-176

COMMENTS OF NATIONAL BROADCASTING COMPANY, INC.

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February 28, 1997

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## SUMMARY

NBC supports closed captioning for the hearing impaired and is in substantial agreement with the proposals in the FCC's rulemaking notice, including specifically the proposed eight to ten year transition period for phasing in full mandatory closed captioning. NBC's television network, owned stations and cable networks already provide closed captioning for a substantial portion of their programs (almost all programming in the case of the television network) and will work diligently to meet all of the timetables established by the Commission's new rules.

These comments deal with limited portions of the proposed rules for which clarification appears to be necessary or which involve specific classes of programs that NBC believes should be exempt from the new requirements.

First, there are several types of programs that should be exempt from captioning requirements because they involve special technical, logistical and cost considerations that are not

outweighed by the limited benefits of captioning the specific programs involved. One such program class should include regional and local sports event broadcasts, which may involve the simultaneous transmission of a large number of different games in different portions of the country or in specific localities. Another class of programming that should be made exempt if the Commission should (contrary to its present proposals) place any captioning responsibilities on entities that provide program materials to stations rather than directly to viewers, should be news feed services, such as NBC's "NewsChannel." Newschannel is a cooperative news exchange service among NBC and its affiliates (not part of the regular NBC network service provided to affiliates) and required captioning would present serious logistical difficulties. Also exempt from captioning requirements should be late night news broadcasts between 1:00 a.m. and 5:30 a.m., owing to the very limited audiences for such programs and the high cost of captioning news materials not previously captioned.

Second, whatever captioning requirements are adopted for "library" video materials, the rules should be clarified to make

clear that such materials do not become "programs" subject to captioning requirements until they are actually broadcast.

Finally, captioning should not be required for interstitial promotional announcements or commercial announcements.

Captioning of promotional announcements would provide little information not already provided in graphic form in such announcements and would impose a substantial economic burden. Market forces may be relied upon to provide captions with respect to national and regional commercial announcements, while the costs of captioning local commercials would impose too great an economic burden as contrasted with the total costs of such announcements.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Closed Captioning and Video )  
Description of Video Programs )  
 ) MM Docket No. 95-176  
Implementation of Section 305 )  
of the Telecommunications Act )  
of 1996 )  
 )  
Video Programming Accessibility )

COMMENTS OF NATIONAL BROADCASTING COMPANY, INC.

National Broadcasting Company, Inc. ("NBC") files these comments in response to the Notice of Proposed Rule Making ("NPRM") in MM Docket No. 95-176, which proposes new rules to implement new Section 713 of the Communications Act of 1934, as amended (the "Act"). The proposed new rules would require that "non-exempt" programming distributed by all video programming providers be closed-captioned for the hearing impaired. An eight to ten year transition period is proposed for phasing in the captioning requirement. As permitted by new Section 713(d) of the Act, the NPRM also proposes or suggests certain classes of programming that would be exempt from captioning requirements

because imposition of the requirements would be economically burdensome to the provider or owner of such programming.

NBC has been an industry leader in providing closed captioning for the hearing impaired and supports the Congressional policy underlying Section 713. Although no rules have existed until now, NBC has moved steadily to increase the amount of closed captioning provided for the television programs distributed by its television network, its owned stations and its cable networks. At present, all regularly scheduled programs furnished by the NBC Television Network on a national basis are closed captioned, with the exception of one music program aired at 12:35 a.m. on Friday nights. The network thus captions approximately 82 to 96 hours of programming each week, or well over 4,000 hours per year. NBC's simultaneous feeds of different regional sports games to different portions of the country on Saturdays and Sundays are generally not captioned. (See pp. 4-6, infra.)

In addition to broadcasting captioned NBC network programs, all of the eleven NBC owned television stations presently caption some -- if not all -- of their local news programs. Some



syndicated programs broadcast by the owned stations are also captioned by the producers and syndicators.

CNBC, an NBC-owned consumer news and business service on basic cable, currently "steno-captions" 42½ hours of programming each week. Finally, MSNBC, a new cable news and information network launched in July 1996 that is owned 50% by NBC, now captions approximately 25% of its weekly programming.

NBC's long-standing and continuing commitment to closed captioning is thus consistent with the basic proposals of the NPRM. NBC is in substantial accord with those proposals, and specifically with the eight to ten year phase-in period to full captioning proposed by the Commission. During this phase-in period, NBC will continue to work diligently to meet the Commission's proposed transition schedule to the extent that schedule is not already being met or exceeded by the various NBC owned entities.

Given NBC's basic agreement with the Commission's goals, these comments address only limited portions of the proposed new rules for which clarification appears to be necessary or which

involve specific classes of programs that NBC believes should be exempt from captioning requirements.

I. The Rules Should Exempt From Captioning Requirements Broadcasts Involving Special Technical, Logistical And Cost Considerations Not Outweighed By Corresponding Benefits.

A. Regional And Local Sports Event Broadcasts Should Be Exempt.

Most national sports events programs are presently captioned. In NBC's case, this is possible because the uplinking of such events typically takes place from New York or Burbank, two of the three locations at which NBC has caption encoding equipment.

Regional and local sports broadcasts present far more difficult circumstances, however, and should not be included among the classes of programs for which captioning is required. Many such events are frequently broadcast simultaneously. NBC, for example, may broadcast as many as eight different AFC games at the same time, and the broadcast of as many as 15 to 20 simultaneous regional basketball games by different television and cable networks is not uncommon. Apart from the technical

problems a network faces in captioning a number of simultaneous live feeds, required captioning for all regional games would demand more live captioning capacity than is presently available from organizations capable of providing high quality captioning service. Moreover, the network uplink feeds for many regional sports events may be from the game sites themselves, at which neither captioning encoding equipment nor skilled captioners may be available. With respect to local sports events broadcasts, the cost of skilled steno-captioners is sufficiently high that it may well discourage the broadcast of some local college or high school sports events by local stations.

These economic and logistical burdens are entitled to particularly great weight in the case of sports event broadcasts because the spoken word is far less important for broadcasts of this kind than for most other kinds of programming. Spectators who actually attend sports events do not ordinarily need announcers and commentators to enable them to understand and enjoy the games they are watching. To the extent that public address announcers at games do provide additional information -- the names of players or the down in football, for example -- even more information is typically provided in the form of graphics

included as part of TV sports event broadcasts. Captioning therefore provides less essential information than is the case with most other kinds of programming.

Given the cost/benefit considerations outlined above, regional and local telecasts of sports events should be included among the classes of programming exempt from captioning requirements.<sup>1</sup>

B. News Feed Services Should Be Exempt From Captioning Requirements.

Similar consideration would apply to news feed services such as NBC's "NewsChannel" in the event that the Commission does not adopt its proposal to place primary captioning responsibilities on entities that provide video programming directly to consumers.

NBC NewsChannel is a cooperative news feed service participated in by NBC's News Division and by most NBC-affiliated

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<sup>1</sup>If the Commission declines to exempt regional and local sports event broadcasts in their entirety, a longer transition period should be provided for such telecasts to ensure that the marketplace will be able to provide the amount of quality captioning capacity that will be necessary to meet the demand.

television stations. Based in Charlotte, North Carolina, NewsChannel gathers in video news footage via satellite and landline from the News Division and from NBC-affiliated stations having uplink sites at approximately 125 locations throughout the country. Virtually none of this news footage is pre-scripted and virtually none is sent to Charlotte with included captions. News materials received by NewsChannel are then formatted as a news feed and redistributed by satellite to NBC's News Division and to more than 200 NBC-affiliated stations. Individual affiliates may use any news stories or portions of news stories they wish to use in their local newscasts (which are typically broadcast only hours after the stations receive the NewsChannel materials). NewsChannel is not part of NBC Television Network programming service and the feed distributed to stations contains no advertising. It is not captioned.

The present NPRM would place primary captioning responsibilities on video programming providers, defined in paragraph 28 of the NPRM as "entities who provide video programming directly to a customer's home, regardless of the distribution technologies employed by such entities." This proposal would not require NBC to caption NewsChannel, which is

essentially a news exchange, news feed service analogous to programming distributed to stations or networks by program syndicators. Should the Commission ultimately change its view, however, and place direct captioning requirements on entities that distribute programs to stations, newsfeed services such as NewsChannel should be explicitly exempted from any such requirements. Not only would logistical and time constraints make such a requirement extremely burdensome, but the fact that stations using NewsChannel materials may do so only in part and as inserted materials in other local coverage of the same news stories may result in pre-provided captions being inappropriate. At the point at which local stations do incorporate NewsChannel materials into their local news broadcasts, normal captioning requirements would, of course, apply, to the same extent as to other local news broadcasts. These requirements would be subject to the Commission's prescribed phase-in schedule and to any applicable exemptions provided in the rules.

C. Captioning Should Not Be Required For Late Night News Broadcasts Between the Hours of 1:00 a.m. and 5:30 a.m.

As reported at paragraphs 18-22 of the NPRM, the cost of high quality live steno-captioning is substantial. That cost is

unlikely to decrease in the immediately foreseeable future and, indeed, may increase as cable networks, stations and other program distributors increase their amounts of captioned programming in response to the Commission's new rules. At least for the immediate future, the Commission should therefore find that a captioning requirement would be economically burdensome with respect to late night news programs that attract relatively few television viewers.

One example of such programming is the "Nightside" late night news programming broadcast by some NBC affiliates using news feed materials supplied by NBC NewsChannel, described at pp. 6-8, supra. Stations broadcasting such news programs do so after 2:00 a.m. Eastern Time and no earlier than 1:00 a.m. in other time zones. The total national audience for such programming tends to be very small (less than one percent of television households at any given hour). Each local station's viewership is only a small percentage of that small national viewing audience, with the number of hearing impaired viewers seeking to view each local station being a still smaller portion of each local station's limited viewership.

Given these extremely low viewing levels, it would be economically burdensome to require steno-captioning of such late night news programming. Late night news programs airing between the hours of 1:00 a.m. and 5:30 a.m. local time should accordingly be exempted from captioning requirements.

II. The New Rules Should Be Clarified to Provide Explicitly That Library Video Materials Do Not Become "Programs" Subject To Captioning Requirements Until They Are Actually Broadcast.

Networks and many stations maintain extensive archives of older, uncaptioned video materials including entertainment programs, news programs, news segments, news documentaries, and other program materials. Such program materials may be retained for historical purposes or because there appears to be a reasonable possibility that their broadcast may be appropriate at some point in the future, but much of the archived video material may never be broadcast at all. No valid policy objective would be served by requiring that scarce and expensive resources be devoted to captioning program material that is simply sitting in a vault.



We do not believe that this was the Commission's intent in proposing that 75% of "library programming" eventually be captioned. To avoid any misunderstanding in this regard, the new rules should make it clear that the ultimate 75% captioning requirement will apply only to library programming that is actually broadcast during each calendar year, and that captioning responsibilities will apply, as in the case of new programming, to those who provide video programs directly to consumers.

### III. Captioning Should Not Be Required for Commercial Announcements or "Interstitials."

NBC urges the Commission to adopt its proposal to exclude "interstitial" promotional announcements from captioning requirements and to similarly include commercial announcements in this exclusion. A captioning requirement is unnecessary for most announcements of either type and the costs of mandatory captioning would therefore be excessively burdensome.

Promotional interstitial announcements are produced by stations and networks in great numbers each day, frequently only a short time before they are broadcast. The NBC network, for example, produces between 75 and 100 such announcements each day,

typically 10 to 20 seconds in length. A requirement that such announcements be captioned would present serious logistical problems for both stations and networks and would provide little additional information for hearing impaired viewers in addition to the information that is usually displayed on the screen in the announcements themselves. Since there would be little added benefit from captioning, the economic burden of captioning cannot be justified. The Commission should adopt the exemption proposed in the NPRM for announcements of this type.

Many national and regional commercial announcements are already captioned by the agencies that produce them and to this extent already appear on the screen with their captions. Market forces have primarily been responsible for the substantial amount of captioning that has thus far occurred, and the same forces are likely to result in a large proportion of national or regional commercials being captioned in the future. The Commission should wait a reasonable amount of time (perhaps three years) to gauge these market developments before deciding whether any general captioning requirement is necessary for national and regional commercials. On the local level, however, the Commission should act now to exempt commercial announcements permanently from

captioning requirements. Far less money is invested in the production of local commercial spots, particularly in smaller markets, and the cost of captioning local spots would therefore be economically burdensome.

CONCLUSION

NBC generally supports the proposed new captioning rules, but urges the Commission to adopt the clarifications and exemptions set forth above.

Respectfully submitted,

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